

Memorandum

TO: Rules and Open Government
Committee

FROM: David Vossbrink

**SUBJECT: PUBLIC RECORDS APPEAL
BY KAREN MOU**

DATE: June 6, 2014

Approved

Date

RECOMMENDATION

Deny the appeal of Karen Mou regarding her Public Records Act request for unspecified records pertaining to City employees in the Library Department.

BACKGROUND

Since August 2013, Karen Mou has initiated extensive and numerous complaints against the staff of Dr. Martin Luther King, Jr., Library and San José State University. Over the past several years Ms. Mou also has filed multiple public records requests seeking documents regarding complaints against Library staff and University security staff; Library operations and Library Commission meetings; suspensions of Library patrons; Library and SJSU employee work schedules, job descriptions, and salary information; resumes and job applications of City employees and contact information for key employees; tort claims filed against the Library; and broadly and loosely defined employee email communications. These requests typically are received as "cut and paste" emails that have been frequently amended and repeated over the course of the past year. On May 31, 2014, we received one such request. (see Attachment A).

The specifics of Ms. Mou's Public Records Appeal are not known at this time. Based on the context of her previous requests for records, however, it is likely that her appeal is related to the issue of employee discipline. She has been provided the public information log of employee discipline that is posted quarterly on the City's website, as required by policy and Government Code Section 6254(c) of the California Public Records Act. She also has requested many documents that do not exist, and therefore would be impossible to provide.

Ms. Mou has been provided all public records that are responsive to her requests in accordance with City Sunshine policies and the California Public Records Act with the exception of one email that was determined to be protected under attorney/client privilege. To date, Ms. Mou has received more than a thousand pages of documents in response to her requests. The City Attorney's Office has again reviewed the one withheld email, and confirms that it is a privileged attorney/client communication. Ms. Mou is not entitled to any other information related to employee discipline than what has already been provided.

RULES AND OPEN GOVERNMENT COMMITTEE

June 6, 2014

Subject: Public Records Appeal by Karen Mou

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COORDINATION

This memorandum was coordinated with the Office of the City Attorney.

A handwritten signature in black ink, appearing to read 'David Vossbrink', written over a horizontal line.

David Vossbrink
Director of Communications

For questions please contact Tamara Becker, Open Government Manager, at (408) 535-8120.

6/6/2014

FW: PRA Request - Becker, Tamara

FW: PRA Request

ATTACHMENT A

Mercado, Marco

Mon 6/2/2014 8:18 AM

To: Becker, Tamara <Tamara.Becker@sanjoseca.gov>;

cc: Scheribri, Jennifer <Jennifer.Scheribri@sanjoseca.gov>; Frimann, Nora <nora.frimann@sanjoseca.gov>; Delgnan, Patricia <Patricia.Delgnan@sanjoseca.gov>; Hutchins, Suzanne <Suzanne.Hutchins@sanjoseca.gov>;

Hi Tamara-

Please see below. Thank you.

marco mercado | assistant to the city manager
city of san jose | city manager's office of employee relations
200 east santa clara street, san jose, ca 95113
direct (408) 292-6436 | main (408) 535-8150 | fax (408) 292-6436
www.sanjoseca.gov

From: karen <karen2u01@yahoo.com>
Sent: Saturday, May 31, 2014 4:53 PM
To: Becker, Tamara
Cc: Karen
Subject: Re: PRA Request

Tamara,

You still own me the following new and older requests of my CPRA requests:

1. Please disclose the follow redact emails: SJ1550, (the last 2 are emails between Jennifer schembri She is not an attorneys.)
1. SJ1550 should not be redacted because it was an email from Jennifer Schembri. She person is clearly not an attorney.
- (2. SJ1551 is from Hutchins, Suzanne. I like to find out this person's job title, job discreption and everthing else under city CPRA policy from p.9 "Disclosure of personnel Information, p.10 "disclosure of Information relating to misconduct of city officials, p.11 "disclosure of log of disciplinary action".)
2. What does the following abbr. means and where are those areas associated with those abbr. located? In addition, all records explain the those abbr. and the location associated with each one of them.
You only disclose the abbr. but failed to disclose the rest of my requests.
3. tort claims between 2011 Jan and 2013 Dec.
4. see SJ1538, city failed to disclose one of my requests:
5. All the writing between Rufino and OER.
6. new request:
7. 1. : all the personal information/records listed on Public REcords policy and protocol 6.1.1 on page 10 for the following library staff:
8. every one of the staff in city manger's office
9. **2. all the misconduct of city officials, disciplinary actions, and enforcement records on the above documents from page 10 to 11 for the same above library staff.**
10. **You still own me the following:**
11. all the patrons whose library cards have been blocked due to other patrons using their library card.
12. Tamara wrote : You will have to tell me what City policy you are referring to regarding library patron information. The state law is included for your information.
13. **My argument: Again, I ready told you that I was NOT looking for patrons' privacy. I do have that email but you failed READ IT; therefore, you are obstructing and delaying my requests. As I told you, disciplinary actions from the library are NOT privacy.**
14. 1. SJ1550 should not be redacted because it was an email from Jennifer Schembri. She person is clearly not an attorney.
15. **all the personal information/records listed on Public REcords policy and protocol 6.1.1 on page 10 and all the misconduct of city officials, disciplinary actions, and enforcement records on the above documents from page 10 to 11 for the following every staff in city manager's office and OER:**
all the organization charts for all the SJ city departments, including but not limited to, department names, names of all the head person for each dep. and all the staff's names, reporting structures amount all those departments. I also like to see all the business contact information for the above staff.

On Saturday, May 24, 2014 4:30 PM, karen <karen2u01@yahoo.com> wrote:

6/6/2014

FW: PRA Request - Becker, Tamara

I don't understand your email at all
I don't give you consent to delay my email and you again over and over refused to follow CPRA policy and city of SJ policy.

On Tuesday, May 20, 2014 2:26 PM, "Becker, Tamara" <Tamara.Becker@sanjoseca.gov> wrote:

Ms. Mou,

I received the below email on May 8th. It appears that you have added a new request for the documents you provided for the library hearing. I am verifying but, I believe you were provided all the materials related to your hearing.

All other documents highlighted in yellow have been responded to. The only additional information is that the library does not maintain a record of patrons whose library card was blocked due to other patrons using their cards.

Tamara Becker
Open Government Manager

From: karen <karen2u01@yahoo.com>
Sent: Thursday, May 08, 2014 4:19 PM
To: karen; Becker, Tamara
Subject: Re: PRA April 3, 2014

I forgot to mention I don't know why you and city of SJ act like bullies to bully citizens. IT is time to clear out every one in the city manager office. We don't want dishonest, lazy, unprofessional liars work in city manager's office

On Thursday, May 8, 2014 9:07 AM, karen <karen2u01@yahoo.com> wrote:

You are violating CPRA law; I still have not heard from you for my newly request public records. You acted above, including but not limited to, our California Supreme Court and CPRA laws.

On Saturday, April 26, 2014 4:17 PM, karen <karen2u01@yahoo.com> wrote:

Again, I'm raising the concern that you refused to treat me equally by following SJ city CPRA procedure. You refused to disclose public records in a timely manner. Do you refused to disclose my newly request items?

On Saturday, April 19, 2014 5:29 PM, karen <karen2u01@yahoo.com> wrote:

one more item:

All the writing that I turned in for library due process hearings.

On Saturday, April 19, 2014 4:02 PM, karen <karen2u01@yahoo.com> wrote:

Please see another new request:

1. All staff who work on 1st floor reference desk in Aug, 2013, including but not limited to, name of the staff, schedule time...

On Thursday, April 17, 2014 12:54 PM, karen <karen2u01@yahoo.com> wrote:

I have not heard from you; just a reminder to you that you failed to follow City of SJ CPRA disclosure procedure. You also obstructing and delaying my requests.

Is there any reason that you refused to follow the procedure for my request? Is it because I'm a minority female, so you think you don't have to follow the procedure?

On , karen <karen2u01@yahoo.com> wrote:

1. King lib failed to disclose all the writing about me, including but not limited to, all the 1-day suspension write ups about.

King also failed to disclose all the write up for other patrons for 1-day suspension

On Saturday, April 12, 2014 5:07 PM, karen <karen2u01@yahoo.com> wrote:

new request:

1. : all the personal information/records listed on Public REcords policy and protocol 6.1.1 on page 10 for the following library staff:
every one of the staff in city manager's office

2. all the misconduct of city officials, disciplinary actions, and enforcement records on the above documents from page 10 to 11 for the same above library staff.

You still own me the following:

all the patrons whose library cards have been blocked due to other patrons using their library card.

Tamara wrote: You will have to tell me what City policy you are referring to regarding library patron information. The state law is included for your information.

My argument: Again, I already told you that I was NOT looking for patrons' privacy. I do have that email but you failed READ IT; therefore, you are obstructing and delaying my requests. As I told you, disciplinary actions from the library are NOT privacy.

1. SJ1550 should not be redacted because it was an email from Jennifer Schembri. She person is clearly not an attorney.

1. What does the following abbr. means and where are those areas associated with those abbr. located? In addition, all records explain the those abbr. and the

<https://bod51045.outlook.com/owa/#viewmodel=ReadMessageItem&ItemID=AAMKADK0MTczNjUvLTImZmUjNGFmZUzN2FjODE4N2BGAAA...> 2/3

6/6/2014

FW: PRA Request - Becker, Tamara

location associated with each one of them.

You only disclose the abbr. but failed to disclose the rest of my requests.

2. tort claims between 2011 Jan and 2013 Dec.
3. see SJ1538, city failed to disclose one of my requests:
4. All the writing between Rufino and OER.

On Monday, April 7, 2014 11:21 AM, "Becker, Tamara" <Tamara.Becker@sanjoseca.gov> wrote:

Ms. Mou,

Resending my April 4th response in case it was not delivered. The City has no additional public records responsive to your request.

From: Becker, Tamara

Sent: Friday, April 04, 2014 12:49 PM

To: karen2u01@yahoo.com

Subject: PRA April 3, 2014

9. all the patrons whose library cards have been blocked due to other patrons using their library card.

Tamara wrote : You will have to tell me what City policy you are referring to regarding library patron information. The state law is included for your information. My argument: Again, I already told you that I was NOT looking for patrons' privacy. I do have that email but you failed READ IT; therefore, you are obstructing and delaying my requests. As I told you, disciplinary actions from the library are NOT privacy. Upon checking with the Library, there are no records responsive to your request.

1. Please disclose the follow redact emails: SJ1550, (the last 2 are emails between Jennifer Schembri. She is not an attorney.) This portion redacted contained a conversation between Library, CAO and OER. It is a confidential attorney client privilege document and will not be released.

1. SJ1550 should not be redacted because it was an email from Jennifer Schembri. She person is clearly not an attorney. As previously indicated, the email was attorney client privilege. Therefore the information will not be released. Jennifer Schembri printed the email chain and was included in the internal atty/client discussion.

(2. SJ1551 is from Hutchines, Suzanne. I like to find out this person's job title, job description and everything else under city CPRA policy from p.9 "Disclosure of personnel information, p.10 "disclosure of information relating to misconduct of city officials, p.11 "disclosure of log of disciplinary action".) All of this information was previously released.

2. New: What does the following abbr. mean and where are those areas associated with those abbr. located? In addition, all records explain the those abbr. and the location associated with each one of them.

You only disclose the abbr. but failed to disclose the rest of my requests. See 4/8 below

3. tort claims between 2011 Jan and 2013 Dec. - There are no additional documents responsive to your request.

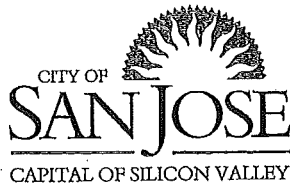
4. 8 see SJ1538, city failed to disclose one of my requests: The City does not have a document which identifies the physical location of each of these assignments therefore there are no records responsive to your request.

5. All the writing between Rufino and OER. - There are no additional documents responsive to your request

Tamara Becker

Open Government Manager

ATTACHMENT B



Office of the City Manager

February 24, 2014

Karen Mou
karen2u01@yahoo.com

Dear Ms. Mou:

It is my understanding that you have raised multiple complaints about multiple City employees, including but not limited to allegations that you are being treated differently because you are a "minority female homeowner," "minority woman," "minority female," and/or not "born in the U.S.A and speak with accent." On or about October 21, 2013, you were notified that an investigation into your complaints had been concluded and that no violation of City policies by City employees had been found.

Since that date, you have made a variety of additional complaints about approximately twenty-one (21) different City employees, and I am writing to advise you that these complaints have also been reviewed and no violation of City policies by City employees has occurred. Your concerns include but are not limited to:

- Multiple allegations against multiple employees that your Federal and California Constitutional rights were being violated, specifically your First Amendment rights, equal protection rights and due process rights;
- Multiple allegations that Library employees are retaliating against you by contacting security when it was determined that you were placing toilet seat covers in the area around you and using other patrons' library cards, or because employees have contacted the Office of Employee Relations;
- Multiple allegations that Library employees have conspired with other Library patrons to "harass" you;
- Allegations that a Library employee inappropriately disclosed confidential private information by referring to you by name when that employee was attempting to address a concern that you were again placing toilet seat covers in the area around you, and when you attempted to record your conversation with that employee without their consent;
- Allegations that a Library employee is "bullying" you in an email in which you repeatedly assert that the employee is not intelligent.

As you know, the City has redirected your email to one location. As has been communicated to you previously on multiple occasions, you are sending email into the City's server and we have an obligation to provide our employees a workplace free of unnecessary and unwarranted continual harassment. This decision was made by the City Manager's Office in an attempt to protect our employees from your repeated inappropriate and berating emails, which include but are not limited to:

- Referring to various City employees, and other Library patrons, as:
 - "a chicken shit"
 - "STUPID shorty" (*emphasis in original*)
 - "stupid and corrupted employee"
 - "you are so ugly"
 - "ASSLHOLE.....:-:-)" (*sic*)
 - "you're an idiot"
 - "liar"
 - "one adj to describe your body size. (*sic*) Not just FAT but LARGE, BIG, FAT" (*emphasis in original*)
 - "STUPID, IMMATURE" (*sic; emphasis in original*)
 - "You are such uneducated, stupid, unprofessional person"
 - "BIG, STUPID, FAT BULLY" (*emphasis in original*)
 - "FAT STUPID bitch" (*emphasis in original*)
 - "FAT STUPID EVIL" (*emphasis in original*)
- Making statements to City employees to the effect of:
 - "They will beat (the employee) up," in reference to "those big, smelly, and filthy homeless"
 - "You will pay for it. I guarantee" (*sic*)
 - The employee's parents "came here illegally to be maid or wash dishes in hotel"
 - The employee was "born in communism country or third world"
 - Threatening to sue other Library patrons (non-City employees)
 - "You are so jealous about me being smarter, slender, better and younger looking, and/or more educated than you"
 - "You need to stop using your very large body size to harass, threaten, cor regulating" (*sic*)
 - "You might want to get your IQ tested to see if your IQ is as high as mine"
- Repeatedly asserting that you are not required to be polite or courteous when speaking or interacting with City employees, and acting in an inappropriate manner both in person, via phone, and via email.

As you know, we have continued to handle legitimate requests contained in your emails, such as Public Records Act Requests or we have forwarded emails to appropriate parties for handling when there is a legitimate need or request.

I am aware that you have received a six (6) month suspension from the Library that is scheduled to end in May 2014. I am also aware that you have already gone through the appropriate appeal process and your appeal was denied. Please note that you have exhausted all internal avenues to appeal this suspension.

In closing, I am aware of an incident on Friday, January 31, 2014, when you referred to an employee as a "bitch," "fucking bitch," and that your concerns were "none of your[her] goddamned business;" and another incident on Friday, February 7, 2014; when you called an employee a "fucking liar" and threw City property (signs) to the ground forcefully enough that the crashing was heard through multiple closed office doors.

Please note that this type of abusive and harassing behavior towards City employees will not be tolerated and must cease immediately. Should it continue, we will consider our options to address this matter further including potentially seeking legal remedies.

Sincerely,



Ed Shikada
City Manager

c: City Attorney's Office
Library Department
Office of Employee Relations